IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 82 OF 2005
IN
WRIT PETITION NO. 573 OF 2001

POONAM & PATEL CONSTRUCTION CO. LTD. AND ORS. ... PETITIONERS.
VS.
POONAM CHAMBERS & ORS. ... RESPONDENTS.

MR. S.P.DALAL I/B. DALAL & CO. FOR THE PETITIONERS.
MR. P.K.SHROFF ALONGWITH RADHIKA PINZARA & PRACHI KHANDGE I/B. PARIMAL SHROFF & CO. FOR RESPONDENT NOS. 1 & 2.
MR. AJAY FERNANDES I/B.HARISH JOSHI & CO. FOR THE RESPONDENT NOS. 3 & 4.

CORAM: S.K.SHAH,J.
DATE : December 9, 2005.

P.C.

1. Heard the learned Counsel on both sides. Read the Order, dated 24.6.2001. The learned Counsel for the Petitioner points out paragraphs 4, 5 and 9 of the Order, having been violated by the Respondents.

2. He made grievance that the Architect has determined the area originally in possession of each of the occupants, including the Petitioner as directed in paragraph No. 4 of the Order, without hearing the Petitioner and also allowed the repairs, alterations, renovations and changes to be carried out in the units in possession of the occupants after reconstruction of "B" wing, without giving the petitioner an opportunity of being heard. He further makes a grievance that the area as per clause (5) of the Order, which was required to be given to him equivalent to the area in his possession, before the building collapsed, which he originally had occupied, is determined by the Architect.

3. In answer to this Mr.S.D.Hosing, the Senior Engineer of the Architect has filed the detailed affidavit.
That affidavit shows that the petitioner was repeatedly called upon to be present before the Architect and produce the plans etc. with regard to the area in his occupation in the basement of the collapsed building. But the Petitioner chose not to remain present. The Petitioner had also filed notice of motion before the Court and stalled the activities of the Architect, who was proceeding with his work in accordance with the Orders of the Court. Subsequently that notice of motion came to be withdrawn in December, 2004, that notice of motion is No. 212 of 2001. The affidavit also clearly specifies that the Petitioner was called upon to produce the plans, but the Petitioner chose not to remain present before the Architect and produce the same.

4. It is under these circumstances, that the Architect proceeded to determine the area in occupation

of the Petitioner as well as other occupants and went on detrmining and finalising the plan. The copies of which were also furnished to the Petitioner.

5. So far as clause 9 of the order is concerned, it deals with the alterations, renovations etc. after the reconstruction is done, which stage has not yet come and, therefore, there is no substance to consider the same at this stage.

6. Under these circumstances, I do not find that any case is made out for taking action for contempt, against the Respondents. The contempt petition is, therefore, disposed of.

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(S.K.SHAH,J.)